

Signature of Clerk or Deputy Clerk

1 Steven K. Young
2 2030 280th Place NE
3 Carnation, WA 98014
4 (425) 785-8225

5 *Plaintiff in Pro Se*

6
7
8 **UNITED STATES DISTRICT COURT FOR**
9 **THE WESTERN DISTRICT OF WASHINGTON**
10

11
12 STEVEN K. YOUNG

13 **Plaintiff**

14 v.

15
16 DITECH FINANCIAL LLC FKA
17 GREEN TREE SERVICING LLC;
18 QUALITY LOAN SERVICE CORP.
19 OF WASHINGTON; and DOES 1-10,
20 Inclusive

21 **Defendant(s).**
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Case No. 19-cv-00867-JLR-MLP

SECOND AMENDED VERIFIED
COMPLAINT FOR:

1. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES
(FDCPA) U.S.C. 1692e § 807(5)
2. VIOLATION OF THE
WASHINGTON DEED OF
TRUST ACT
3. VIOLATION OF THE
WASHINGTON CONSUMER
PROTECTION ACT
4. QUIET TITLE
5. DECLARATORY RELIEF

Jury trial demanded

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1 **JUDICIAL NOTICE**

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3 10. Plaintiff moves this Honorable Court to take Mandatory Judicial
4 Notice under the Federal Rules of Civil Procedure Rule 201 (d) of the following:

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6 a. The United States Supreme Court, in *Haines v Kerner* 404 U.S. 519
7 (1972), said that all litigants defending themselves must be afforded the
8
9 opportunity to present their evidence and that the Court should look to the
10 substance of the complaint rather than the form.

11
12 b. In *Platsky v CIA*, 953 F.2d 26 (2nd Cir. 1991), the Circuit Court of
13 Appeals allowed that the District Court should have explained to the litigant
14 proceeding without a lawyer, the correct form to the plaintiff so that he could
15 have amended his pleadings accordingly. Plaintiff respectfully reserves the right
16
17 to amend. A pro se plaintiff's pleadings and filings are liberally construed and
18 are held to a less stringent standard than documents drafted by attorneys.
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21 *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Hamilton v. Brown*, 630 F.3d 889,
22 893 (9th Cir. 2011). In evaluating a pro se plaintiff's "compliance with the
23 technical rules of civil procedure, we treat him with great leniency." *Draper v.*
24 *Coombs*, 792 F.2d 915, 924 (9th Cir. 1986).
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1 c. Under the Federal Rules of Evidence 1002 and 1003 governing the
2 admissibility of duplicates, any photocopies brought in as evidence are considered
3 to be forgeries. It is unfair to admit a photocopy in the place of an original as
4 there are information contained within the original that is not in a photocopy,
5 specifically the only legally binding chain of title to the promissory note.
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9 d. Under Uniform Commercial Code - ARTICLE 3 -§3-308, all signatures
10 presented that is not on an original format (with the original wet ink signature) is
11 hereby denied and is inadmissible.
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14 COMES NOW the Plaintiff, Steven K. Young ("Plaintiff"), complaining of the
15 Defendant as named above, and each of them, as follows:
16
17

18 **I. THE PARTIES**
19

20 1. Plaintiff is now, and at all times relevant to this action, a resident of the
21 County of KING, State of Washington.
22

23 2. Defendant, DITECH FINANCIAL LLC FKA GREEN TREE SERVICING
24 LLC (herein referred to as "DITECH") is a mortgage servicing company/debt
25 collector doing business in the County of KING, State of WASHINGTON.
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1 3. Defendant, QUALITY LOAN SERVICE CORP. OF WASHINGTON, is a
2 foreclosure trustee service doing business in the County of KING, State of
3 WASHINGTON.
4

5
6 4. At all times relevant to this action, Plaintiff has owned the Property located
7 at 238 Sunset Drive, Pacific, WA 98047 (the "Property").
8

9 5. Plaintiff does not know the true names, capacities, or basis for liability of
10 Defendants sued herein as Does 1 through 10, inclusive, as each fictitiously
11 named Defendant is in some manner liable to Plaintiff, or claims some right, title,
12 or interest in the Property. Plaintiff will amend this Complaint to allege their true
13 names and capacities when ascertained. Plaintiff is informed and believes, and
14 therefore alleges, that at all relevant times mentioned in this Complaint, each of
15 the fictitiously named Defendants are responsible in some manner for the injuries
16 and damages to Plaintiff so alleged and that such injuries and damages were
17 proximately caused by such Defendants, and each of them.
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23 6. Plaintiff is informed and believes, and thereon alleges, that at all times
24 herein mentioned, each of the Defendants were the agents, employees, servants
25 and/or the joint-venturers of the remaining Defendants, and each of them, and in
26 doing the things alleged herein below, were acting within the course and scope of
27 such agency, employment and/or joint venture.
28

II. JURISDICTION

7. The transactions and events which are the subject matter of this Complaint all occurred within the County of KING, State of WASHINGTON.

8. The Property is located within the County of KING, State of WASHINGTON with an address of 238 Sunset Drive, Pacific, WA 98047 (the "Property").

9. The Court has original jurisdiction over the claims in this action based on 28 U.S.C. §§1331, 1343, 2201, 2202, 15 U.S.C. §1692, 12 U.S.C. §2605, and 42 U.S.C. §1983 which confer original jurisdiction on federal district courts in suits to address the deprivation of rights secured by federal law.

10. This Court also has supplemental jurisdiction over any pendant state law Claims because they form a part of the same case or controversy under Article III of the United States Constitution, pursuant to 28 U.S.C. §1367.

11. This Court has original jurisdiction over the claims in this action based on 28 U.S.C. §1332 which confers original jurisdiction on Federal district courts in suits between diverse citizens that involve an amount in controversy in excess of \$75,000.00. In the case at bar, Defendant and the Plaintiff is diverse based upon the current construction of that language under 28 U.S.C. §1332. Every issue of

1 law and fact in this action is wholly between citizens of different states. The
2 actual mortgage at issue in this case is in the amount of \$130,306.29.

3
4 As such, Plaintiff contends, is informed and believes that this court has
5 jurisdiction over this case pursuant to 28 U.S.C. §1332(a)(1).
6

7 12. The unlawful conduct, illegal practices, and acts complained of and
8 alleged in this Complaint were all committed in this District of Washington and
9 involved real property that is located in this District of Washington. Therefore,
10 venue properly lies in this District, pursuant to 28 U.S.C. §1391(b).
11

12 13. Plaintiff is now, and at all times mentioned herein, an individual
13 residing in the City of Pacific, in the State of Washington.
14
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18 **III. INTRODUCTORY ALLEGATIONS**

19 14. This is an action brought by Plaintiff seeking to enjoin the impending
20 foreclosure, quiet title and for compensatory, special, general and punitive
21 damages.
22

23 15. Plaintiff disputes any foreclosure proceedings regarding the real property
24 in question. This action to foreclose is barred by the statute of limitations.” RCW
25 7.28.300. In late 2012 Plaintiff received a letter of acceleration from Greentree
26 Financial that threatened that if an amount was not paid within 30 days then
27
28

1 Greentree Financial would accelerate the note and foreclose on the Subject
2 Property
3

4 16. Pursuant to the Deed of Trust the lender has the discretion to accelerate
5 the debt and gives the borrower the right to reinstate.
6

7 IV. SPECIFIC ALLEGATIONS 8

9 17. In mid-2014, Northwest Trustee Service served Plaintiff with a Notice of
10 Default and a subsequent to that, a Notice of Trustee Sale, with a sale date of
11 December 12, 2014.
12

13 18. It has been over 7 years since the lender Greentree Financial sent its letter
14 of acceleration of Debt to Plaintiff. Plaintiff therefore requests that this
15 Honorable Court
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18 19. Acceleration is a key issue in quiet title claims because the six-year
19 limitations period on the final installment of the loan commences upon
20 acceleration. Washington law has long provided that to accelerate a debt, “the
21 acceleration must be clearly and unequivocally expressed to the
22 debtor.” *Washington Fed. v. Azure Chelan LLC*, 195 Wash. App. 644, 663 (2016)
23 (citing *Weinberg v. Naher*, 51 Wash. 591, 594 (1909) and *Glassmaker v. Ricard*,
24 23 Wash. App. 35, 38 (1979)).
25
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1 20.Lending support to this acceleration theory, federal courts found in two
2 cases that notices of intent to accelerate caused an acceleration under Washington
3 law where the notices contained a statement such as “If the default is not cured
4 on or before [X], the mortgage payments will be accelerated”
5

6
7 21.In *Merceri v. Bank of New York Mellon ex rel. Holders of the Alternative*
8 *Loan Tr. 2006-OA19* (“*Merceri II*”), No. 76706-2-I, P.3d, 2018 WL 3830033
9 (Wash. Ct. App. Aug. 13, 2018), the trial court granted judgment for quiet title on
10 a \$468,000 mortgage in favor of the borrower. The trial court found that the
11 above-referenced language caused acceleration.
12
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15 22.Further, in *Cedar West Owners Association v. Quality Loan and*
16 *Nationstar*, Plaintiff Cedar West filed a lawsuit against *Quality Loan* and
17 *Nationstar* to quiet title to the property and enjoin the trustee's sale. Cedar West
18 alleged the six-year statute of limitations barred the nonjudicial foreclosure.
19
20

21 23.Greentree’s 2012 letter of acceleration to Plaintiff clearly stated the
22 following language: “If the default is not cured on or before [X], the mortgage
23 payments will be accelerated” As a result of same, Plaintiff hereby alleges
24 the six-year statute of limitations bars the nonjudicial foreclosure; and pursuant to
25 RCW 7.28.300, the Trustee Sale, scheduled for August 9, 2019, must be
26 enjoined.
27
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1 **V. FIRST CAUSE OF ACTION**
2 **VIOLATION OF FAIR DEBT COLLECTION PRACTICES (FDCPA)**
3 **U.S.C. 1692e § 807(5)**
4 **(Defendant)**

5 24.Plaintiffs re-alleges and incorporates by reference all preceding
6 paragraphs as though fully set forth herein.
7

8 25.Plaintiff asserts and believes Defendant knew, as a result of the tolling of
9 the statute of limitation, they did not have a right to collect payments and or
10 threaten to foreclose on Plaintiff's real property.
11

12 **VI. SECOND CAUSE OF ACTION:**
13 **VIOLATION OF WASHINGTON STATE**
14 **DEED OF TRUST ACT**
15 **(Defendant Quality)**

16 26.Plaintiffs re-alleges and incorporates by reference all preceding
17 paragraphs as though fully set forth herein.
18

19 27. Plaintiff asserts and believes that the interest and payment stated on the
20 Notice of Trustee Sale. Plaintiff has no way of verifying same.
21

22 **VII. THIRD CAUSE OF ACTION**
23 **VIOLATION OF WASHINGTON STATE**
24 **CONSUMER PROTECTION ACT**
25 **(Defendant Quality)**

26 28.Plaintiffs re-alleges and incorporates by reference all preceding
27 paragraphs as though fully set forth herein.
28

1 29.The elements of a CPA claim are well-established and not in dispute

2
3 30.To prevail on her CPA claim, a plaintiff must prove the following
4 elements: (1) an unfair or deceptive act or practice; (2) the act or practice
5 occurred in trade or commerce; (3) the act or practice impacts the public interest;
6 (4) the act or practice caused injury to the plaintiff in his business or property;
7 and (5) the injury is causally linked to the unfair or deceptive act. *Hangman*
8
9 *Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, [105 Wn.2d 778](#), 780, [719](#)
10 [P.2d 531](#) (1986).
11
12

13 31.Plaintiff asserts and believes that all of the above-referenced elements are
14 in place.
15

16
17 **VIII. FOURTH CAUSE OF ACTION**
18 **QUIET TITLE**
19 **(Defendant)**

20 32.Plaintiff's title to the above-described property is derived as follows: On or
21 about April 28, 2008 (hereinafter referred to as "Closing Date") Plaintiff entered
22 into a consumer credit transaction with Countrywide Bank by obtaining a
23 mortgage loan in the sum of \$243,750.00, secured by Plaintiff's principal
24 residence, (Subject Property). This note was secured by a First Trust Deed on the
25 Property in favor of Countrywide Bank.
26

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1 33.The Defendant named herein claim an interest and estate in the property
2 adverse to plaintiff in that defendant asserts he is the owner of the note secured by
3 the Mortgage/Deed of Trust to the property the subject of this suit.
4

5 34.The Defendant named herein claims an interest and estate in the property
6 adverse to plaintiff in that defendant asserts he is the owner of Mortgage/Deed of
7 Trust securing the note to the property the subject of this suit.

8 35.The statute of limitations has tolled and Plaintiff is entitled to “judgment
9 quieting title” against the security instrument. Therefore, any claim by defendant
10 is without any right whatsoever, and defendant has no right, estate, title, lien or
11 interest in or to the property, or any part of the property.
12

13 36.The claim of the defendant herein named, claim some estate, right, title,
14 lien or interest in or to the property adverse to plaintiff's title, and these claims
15 constitute a cloud on plaintiff's title to the property.

16 37.Plaintiff requests the decree permanently enjoin defendant, and all persons
17 claiming under them, from asserting any adverse claim to plaintiff's title to the
18 property.
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21 **IX. FIFTH CAUSE OF ACTION:**
22 **DECLARATORY RELIEF**

23 38.Plaintiff re-alleges and incorporatess by reference all preceding
24 paragraphs as though fully set forth herein.
25

26 39.An actual controversy has arisen and now exists between Plaintiff and
27 Defendant concerning their respective rights and duties regarding the Note and
28 Mortgage/Trust Deed.

1 40.Plaintiff contends that as a result of the tolling of the statute of limitations,
2 that Defendant does not have authority to foreclose upon the Subject Property;
3 and the Trustee Sale, scheduled for August 9, 2019, must be enjoined.
4

5 41.Plaintiff therefore request that as a result of the tolling of the statute of
6 limitations, a judicial determination of the rights, obligations and interest of the
7 parties with regard to the Property, and such determination is necessary and
8 appropriate at this time under the circumstances so that all parties may ascertain
9 and know their rights, obligations and interests with regard to the Property.
10

11 42.Plaintiff requests that as a result of the tolling of the statute of limitations,
12 all adverse claims to the real property be must determined by a decree of this
13 court.

14 43.Plaintiff requests that as a result of the tolling of the statute of limitations,
15 the decree declare and adjudge that plaintiff is entitled to the exclusive possession
16 of the property.

17 44.Plaintiff requests that as a result of the tolling of the statute of limitations,
18 the decree declare and adjudge that plaintiff owns in fee simple, and is entitled to
19 the quiet and peaceful possession of, the above-described real property.
20

21 45.Plaintiff requests that as a result of the tolling of the statute of limitations,
22 the decree declare and adjudge that the defendant, has no estate, right, title, lien,
23 or interest in or to the real property or any part of the property.
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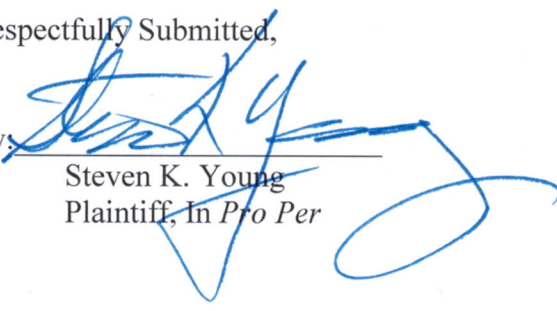
1 **PRAYER FOR RELIEF**

2
3 **WHEREFORE** Plaintiff, hereby asks for the following to be awarded:

- 4
5 a. A judgment setting forth that the six-year statute of limitations bars the
6 nonjudicial foreclosure; the Trustee Sale, scheduled for August 9, 2019, is
7 enjoined;
- 8 b. A judgment quieting title against the security instrument, and in favor of
9 Plaintiff;
- 10 c. A judgment setting forth that Plaintiff is entitled to the exclusive
11 possession of the property;
- 12 d. A judgment setting forth that Plaintiff owns in fee simple, and is entitled to
13 the quiet and peaceful possession of, the above-described real property.
- 14 e. Defendant and all persons claiming under them, have no estate, right, title,
15 lien, or interest in or to the real property or any part of the property; and
16
- 17 f. A judgment setting forth that the foreclosure sale date be cancelled.
18

19
20 Dated: 6/17, 2019
21

Respectfully Submitted,

22
23 By: 
24 Steven K. Young
25 Plaintiff, In Pro Per
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VERIFICATION

I, Steven K. Young, am the plaintiff in this action. I have read the foregoing Second Amended Complaint, and it is true of my own knowledge, except as to those matters stated on information or belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Steven K. Young
In Pro Per

NOTARY

[SEAL]



State of Washington

County of King

Signed and sworn to (or affirmed) before me on 06/17/2019 (date)

by Steven K. Young (name of person making statement)

Notary Signature [Signature]

Title Notary Public

My appointment expires 04/04/2020